

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF: CITY OF NEW LONDON NPDES Permit No. 06-44-58-0-01	ADMINISTRATIVE ORDER NO. 2015-WW-10
--	--

TO: City of New London
c/o Mayor and Council Members
112 West Main Street
New London, Iowa 52645

I. SUMMARY

This Administrative Order (order) is issued to the City of New London (City) by the Iowa Department of Natural Resources (Department). The order is issued due to failure to timely apply to renew an NPDES Permit. This order assesses an administrative penalty in the amount of \$1,500.00.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Anne Hildebrand, Environmental Specialist
Senior, NPDES Section
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515- 725-8418

Relating to legal requirements:

Diana L. Hansen
Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515- 725-8248

Mail payment of penalty to:

Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
City of New London**

Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The City owns and operates a three cell aerated wastewater lagoon system. A curtain wall in the second cell creates a third quiescent cell in this lagoon system. The wastewater treatment facility (WWTF) receives domestic wastewater from the City.

2. This facility is operated pursuant to NPDES Permit No. 6-44-58-0-01 (permit). The permit was issued with an effective date of March 1, 2010 and included an expiration date of February 28, 2015. The permit was amended with an effective date of October 1, 2014. The permit amendment extended the compliance schedule for meeting the final ammonia nitrogen and *E. coli* limits from October 1, 2014 to June 1, 2015.

3. The permit issued for this facility included a "Duty to Reapply" as Standard Condition No. 2. The condition provides "[i]f you wish to continue to discharge after the expiration date of this permit you must file an application for reissuance at least 180 days prior to the expiration date of this permit." The renewal application for the permit was required to be filed with the Department by 180 days prior to expiration of the permit or by September 1, 2014. This was a condition of the permit and a requirement under Department rules. The Department sent a renewal application form to the permit holder on April 9, 2014. The due date for the renewal application was September 1, 2014.

4. On or about October 3, 2014, a notice of violation letter was sent to the permit holder due to failure to submit the completed renewal application by the application due date.

5. A completed application for permit renewal has not been received from the permit holder to date.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state without or contrary to a permit from the Department. Iowa Code section 455B.183 prohibits the construction or operation of disposal systems without or contrary to written permits from the Department. Iowa Code section 455B.174 authorizes the Director to issue permits for the operation of a disposal system.

2. Iowa Code section 455B.171(5) defines "disposal system" as "a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
City of New London**

sewage sludge.” The term “includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge.”

3. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of disposal systems and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60–69. Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless authorized by a permit from the Department. Subrule 64.3(1) prohibits the operation of a wastewater disposal system unless authorized by a permit from the Department and prohibits the operation of any wastewater disposal system contrary to any condition of a permit.

4. Pursuant to Iowa Code section 17A.18(2), when a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency.

5. Department subrule 567 IAC 64.8(1) pertains to individual operation and NPDES permits. It provides that such permits will be reissued according to the procedures identified in 64.8(1)“a” to “c”. Subrule 64.8(1)“a” states that “[a]ny operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit pursuant to 567–60.4(455B).” The facts stated above establish that no permit renewal application was submitted by the permit holder for its NPDES permit for its WWTF within the time frame established by this subrule. No permit renewal application has been received by the Department to date.

6. The terms of this facility’s permit and the Department subrule required submission of an application for permit renewal to the Department by no later than September 1, 2014. The Department did not receive a complete permit renewal application for this facility by this date. Permit No. 6-44-58-0-01 expired on February 28, 2015. The permit will not be considered statutorily extended under Standard Condition No. 2 and subrule 64.8(1)“a” since a timely permit renewal application was not received by the Department.

V. ORDER

THEREFORE, the Department orders the City to comply with the following provisions in order to resolve this matter:

1. The City is required to submit a complete renewal application for an NPDES permit within thirty (30) days of receipt of this order.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
City of New London**

2. The City is assessed an administrative penalty of \$1,500.00. This penalty is required to be paid to the Department within 60 days of execution of this order.

VI. PENALTY

Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. Iowa Code section 455B.109 authorizes the Commission to establish a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of \$1,500.00.

a. **Economic Benefit.** The City has delayed the costs associated with the submission of the permit renewal application. The preparation of an NPDES permit can require significant financial resources. The amount of \$500.00 is assessed for this factor.

b. **Gravity of the Violation.** Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. Failure to timely submit a renewal application for an NPDES permit and operation of a wastewater disposal system without an NPDES permit are serious violations. The amount of \$500.00 is assessed for this factor.

c. **Culpability.** The Department sent a permit renewal application and a notice of violation letter to this facility advising it of its duty to timely submit its permit renewal application. Despite these efforts, a timely application for permit renewal has not been submitted. The amount of \$500.00 is assessed for this factor.

VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175(1), and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
City of New London

VIII. NONCOMPLIANCE

Failure to comply with this order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.175. Total compliance with all provisions of Section "V. Order" of this order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this order.



CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 20th day of
April, 2015.

City of New London- Wastewater Facility No. 6-44-58-0-01 (Copy to Central Office Wastewater File), Anne Hildebrand- NPDES Permits, Terry Jones- Field Office No. 6, Diana Hansen- Legal Services Bureau, US EPA Region VII, I.B.2.

